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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

TRANSCRIPT OF JURY TRIAL  
DAY 8 - MORNING SESSION  
BEFORE THE HONORABLE JOSEPH N. LAPLANTE

Appearances:

For the Government: Georgiana L. MacDonald, AUSA  
Seth R. Aframe, AUSA  
John J. Kennedy, AUSA  
United States Attorney's Office

For the Defendant: Mark L. Sisti, Esq.  
Sisti Law Offices

Court Reporter: Liza W. Dubois, RMR, CRR  
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United States District Court  
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## I N D E X

3 WITNESS: Direct Cross Redirect Recross

RENEE SPINELLA (Cont)

By Mr. Aframe 4

By Mr. Aframe 4

EXHIBITS: FOR ID IN EVD.

(None marked.)

## PROCEDINGS

(Off-the-record chambers conference held.)

3 THE CLERK: Court is now in session and has before  
4 it for consideration jury trial day eight in United States of  
5 America vs. Ian Freeman, 21-cr-41-01-JL.

6 THE COURT: Good morning, everyone. Welcome back to  
7 court. Sort of a long break.

8                   Have any of you had any conversations with each  
9 other or anyone else regarding the trial during the recess?

10 Have any of you been exposed to any information  
11 about the trial or any issues involved in the trial through  
12 independent research or inquiry or even inadvertently during  
13 the recess?

14 All negative answers, for the record.

15 We'll proceed then.

16 So we've been off for a few days because one of our  
17 witnesses was indisposed, but she's back.

18 We're very glad you're back and well. Thank you for  
19 being here this morning.

20 We're going to continue with her direct examination  
21 and then her cross-examination.

22 The witness is still under oath.

23 And you understand that, right?

24 | THE WITNESS: Yes.

25 | THE COURT: Good. All right then.

1                   Mr. Aframe, you may continue with your direct  
2 examination.

3                   CONTINUED DIRECT EXAMINATION

4 BY MR. AFRAME:

5                   Q.     Good morning, Ms. Spinella.

6                   A.     Good morning.

7                   Q.     And I, too, am glad you're feeling better.

8                   So I only have about maybe five minutes left on my  
9 direct examination.

10                  So we were -- just to pull up 858, just to do a  
11 little bit of reorienting itself, since a few days have gone  
12 by.

13                  We were looking at communications from this chat  
14 which was between you, Mr. Freeman, Andy, and -- Andy Spinella,  
15 your husband -- can we just go back to the, yeah -- and a guy  
16 named Michael.

17                  And these chats were a group called Manch CVM  
18 Service. Do you see that in the first blue bubble down there?

19                  A.     Yes.

20                  Q.     And does CVM refer to the vending machines?

21                  A.     Yes.

22                  Q.     Okay. And one of your jobs for Mr. Freeman was to  
23 pick up money from the vending machines?

24                  A.     Yes.

25                  Q.     So we were looking at 861. We had actually gone

1 through it, but I never really got to ask you any questions, so  
2 I just want to go back through it again so I can ask you a  
3 question about it.

4 So we'll do what we did. And these are in your  
5 binder, so if you want to see them, they're at 861, if you want  
6 to read along.

7 We'll do the same thing. I will read the  
8 Mr. Freeman parts and Ms. MacDonald will read the other parts.

9 "FYI guys, Michael has decided to retire from CVM  
10 administration. A recent arrest of a guy in California spooked  
11 him."

12 MS. MACDONALD: "Oh, weak sauce. What happened?  
13 What did said guy get arrested for?

14 Also, we shall pick up tomorrow," smiley face, "and  
15 happy birthday big boy."

16 MR. AFRAME: And then there's the headline from a  
17 newspaper and then it says -- a newspaper article or an  
18 Internet article, I guess.

19 Then it says "thank you."

20 MS. MACDONALD: "But how is that laundering.  
21 And that's Cali being retarded like usual."

22 MR. AFRAME: And then there's an attachment which  
23 isn't there and then --

24 MS. MACDONALD: "So he's the idiot. LOL, gotcha.  
25 Not worried then.

1                    Sounds about right. Good thing it's legal in  
2 New Hampshire and we don't sell to people we know are doing  
3 illegal things.

4                    So then why did that scare Michael? We're not  
5 registered. On their radar, sure but ..."

6                    MR. AFRAME: And then this ends with a recording.  
7 We'll just play the recording, which is 861A.

8                    (Audio recording played.)

9                    MR. AFRAME: So if we could go back to 861, the last  
10 page of that.

11                  Q. So above -- do you see where it says "attachments"  
12 at the bottom?

13                  A. Yes.

14                  Q. And so above that, that's -- that's -- you're Renee  
15 Kate, right?

16                  A. Yes.

17                  Q. And it says: So then why did that scare Michael?  
18 We're not registered.

19                  Do you see that?

20                  A. Yes.

21                  Q. So when you say "we're not registered," are you  
22 referring to the bitcoin operation you were assisting  
23 Mr. Freeman with?

24                  A. Yes.

25                  Q. And you understood by not registered, based on the

1 recording you just heard, that meant not registered with  
2 FinCEN?

3 A. I guess, yeah.

4 Q. Okay. And you were helping Mr. Freeman, right,  
5 because you were picking up money from the CVMs, right?

6 A. Yes.

7 Q. And you had opened bank accounts for him?

8 A. Yes.

9 Q. And you had helped by selling bitcoin on  
10 localbitcoins.com?

11 A. Yes.

12 Q. And you let him use your bitcoinbombshell account at  
13 some point?

14 A. Yes.

15 MR. AFRAFE: Okay. So we'll press ahead and we just  
16 had a couple more brief chats to go through.

17 So we'll look at 862.

18 "Also, whale's back at Murphy's, been pumping bills  
19 in since 3:30.

20 Hey guys, I need you to get there soonish.

21 40 percent full.

22 Murphy's."

23 MS. MACDONALD: "Most likely picking up today."

24 Q. So is Murphy's -- do you know what that refers to,  
25 where Murphy's -- what's Murphy's?

1 A. Yes.

2 Q. What is it?

3 A. It's a bar.

4 Q. Okay. And was there a CVM there?

5 A. Yes.

6 Q. And Mr. Freeman, did he have the ability to monitor  
7 the money that was going into the machines?

8 A. Yes.

9 Q. And when it says "been pumping bills in since 3:30,"  
10 was Mr. Freeman able to do that from Keene to watch what was  
11 happening in the machines?

12 A. Yes.

13 MR. AFRAME: Okay. And 863. This is on  
14 February 5th, 2021.

15 "35,000 into Murphy's in the last hour, major whale  
16 on site?"

17 MS. MACDONALD: "Christ."

18 Q. And what does "major whale" mean?

19 A. It means that someone was filling the machine.

20 Q. Okay. With money?

21 A. Yes.

22 MR. AFRAME: And just two more. 864.

23 "Added flyers in a holder and a sticker over the  
24 fingerprint scanner.

25 Verified, thank you. All settled.

1 26 percent over 12K."

2 Q. So was Mr. Freeman able to know the percentage of  
3 the machine's capacity that was filled up with money?

4 A. I think so.

5 MR. AFRAME: And the last one is 865, which was on  
6 March 1st of 2021.

7 MS. MACDONALD: "I also filled that flyer slot."

14 24,530 received, thank you.

15 65 -- \$16,520 Murphy's and 17,870 received."

16 Q. So at this time, were you just doing CVM collections  
17 for Mr. Freeman?

18 A. I think so.

19 MR. AFRAME: Okay. I have no other questions.

## CROSS-EXAMINATION

21 | BY MR. SISTI:

22 Q. How're you doing?

23 A. Good. How are you?

24 Q. I'm okay. Good seeing you back. It's been a while.

25 A. Thanks.

1 Q. Let me start where Mr. Aframe left off, if I can.

2 This Murphy's, this is the Murphy's bar on Elm  
3 Street in Manchester?

4 A. Yes.

5 Q. Can you tell the jury where the machine is located  
6 and to the best of your knowledge how long it was located  
7 there?

8 A. It was inside the front door and I think it was  
9 there for a year, I think.

10 Q. By the time you were working, it was already there  
11 for a year?

12 A. I don't quite remember, but I think so.

13 Q. Okay. And then how long were -- how long were you  
14 going to Murphy's to pick up the cash out of the machine?

15 A. I think from at least summer 20 -- I don't remember  
16 precisely.

17 Q. It was more than just a couple times, though, right?

18 A. Yeah, yeah, yeah.

19 Q. Was it basically a weekly thing, couple times a  
20 week, something like that?

21 A. Yes.

22 Q. Okay. And obviously you're aware that there was --  
23 it was there for the public's use?

24 A. Yes.

25 Q. I mean, anybody could come in and it would be

1       staring you right in the face?

2       A.     Yes.

3       Q.     Can you describe to the jury just how big it was  
4 and --

5       A.     It was at least like this big --

6       Q.     Like you're saying maybe like --

7       A.     -- and yellow.

8       Q.     Yellow?

9       A.     Yeah.

10      Q.     About a foot and a half by two feet, something like  
11 that?

12      A.     Yes.

13      Q.     Was it hanging on the wall?

14      A.     Yes.

15      Q.     And you were saying it was right on the front door,  
16 like you walk in the bar and there it is, right?

17      A.     Yes.

18      Q.     Okay. So anybody that walks into that place would  
19 be exposed to it, right?

20      A.     Yes. There was a sticker on the door that said, you  
21 know, bitcoin for sale.

22      Q.     Right. Where was the sticker?

23      A.     Also on the front door.

24      Q.     Right on the front door?

25      A.     Yes.

1           Q.     For everybody in the world to see walking down -- up  
2 and down Elm Street, which is the biggest street in Manchester,  
3 right?

4           A.     Yes.

5           Q.     Right across from the arena pretty much?

6           A.     Yes.

7           Q.     Okay. And the owner, of course, would have known it  
8 was there, right?

9           A.     Yes.

10          Q.     Okay. Did you deal with the owner much?

11          A.     No.

12          Q.     No. Did you ever, ever, hear of any complaints  
13 whatsoever from the owner, the Liquor Commission, or law  
14 enforcement about that machine?

15          A.     No.

16          Q.     Nothing at all, correct?

17          A.     No.

18          Q.     Okay. And when you go there to pick up the cash, I  
19 mean, you weren't doing this in some kind of a secretive  
20 fashion, were you?

21          A.     No.

22          Q.     Can you tell -- tell the jury just what the typical  
23 way in which you would collect cash out of the machine would  
24 be.

25          A.     So we would go there with the keys and unlock it,

1 take the cash out, and I mean -- I -- some -- a little bit of,  
2 put it in a bag and then walk out.

3 Q. Okay. And did you do that during the day?

4 A. Yes.

5 Q. Okay. And would people see you going in and doing  
6 that?

7 A. Yes.

8 Q. Okay. Anybody comment how like that was illegal or  
9 that was not appropriate or anything like that?

10 A. No.

11 Q. Okay. How many times do you think you went in and  
12 out of that particular place just for that particular machine?

13 A. I'm honestly not sure, but probably like a hundred,  
14 if I had to guess.

15 Q. All right. So, I mean, this was something that was  
16 constantly going on, right?

17 A. Yeah.

18 Q. Okay. And, again, you could actually see that  
19 machine from Elm Street itself because it was -- right through  
20 the window, right?

21 A. Pretty much, yeah.

22 Q. Any police officer walking up and down could see it?

23 A. I don't think so. Or would be able to see it?

24 Q. Yeah.

25 A. Yes. Yeah.

1           Q.     Yeah. I mean, anybody -- it was just open, out  
2 there, sticking out there, right?

3           A.     Yes.

4           Q.     Okay. Let me go back to something.

5                   When you were -- let me ask you something straight  
6 up. Okay?

7           A.     Uh-huh.

8           Q.     Because the jury heard the last time you were here,  
9 last week, about a deal that you had made. And, you know, can  
10 you explain that to the jury, just what your understanding of  
11 this deal is.

12          A.     Are you referring to the deal of when I was moving  
13 out of --

14          Q.     No, the plea -- the plea deal.

15          A.     Oh, the plea deal. Yeah.

16                   I was given the option of potentially spending eight  
17 to ten years in jail if we took our cases to trial, so the  
18 logical seem -- logical thing to do seemed to be to take a plea  
19 deal, which has made me a felon, and my husband as well. And,  
20 yeah. No jail time, but that's -- that was the deal.

21          Q.     So, I mean, let's get this straight. Okay? Because  
22 I don't want to -- I don't want to cut corners, I don't want to  
23 say anything that wasn't part of this thing, and I want the  
24 jury to hear the truth. Okay?

25          A.     (Nods head.)

1 Q. Who -- who told you you would be doing eight to  
2 ten years in jail?

3 A. It was part of the proffer given by the prosecution  
4 that is sitting in front of you.

5 Q. And they told you you would do eight to ten years?

6 A. Yes.

7 Q. Let me ask you something that goes right to the  
8 heart of this thing. Do you think you did anything illegal?

9 A. I don't think I did anything illegal or wrong.

10 Q. All right. So would it be fair to say you pled  
11 guilty because you were scared?

12 A. Yes.

13 Q. And that you pled guilty because you were afraid to  
14 go to trial?

15 A. Yes.

16 Q. Would it be fair to say that you never conspired or  
17 agreed with Ian to do anything illegal?

18 A. Yes.

19 Q. And that when you were dealing with Ian, in fact,  
20 would it be fair to say that Ian warned you that you should be  
21 careful and watch out for scammers?

22 A. Yes, multiple times.

23 Q. Did he discuss with you that you're not in the  
24 business to take advantage of people, you're -- this was not a  
25 business, this is a church-related thing?

1 A. Yes. That was never the intention.

2 Q. All right. I mean, this wasn't to be making  
3 millions of dollars, was it?

4 A. No.

5 Q. And what was Ian doing, if you know, with any of the  
6 proceeds that were coming out of those machines?

7 A. Going straight back into bitcoin.

8 Q. So it would be a repurchase --

9 A. (Nods head.)

10 Q. -- back into bitcoin?

11 A. Yes.

12 Q. For further sales?

13 A. Yes.

14 Q. And what was the reason to buy and sell bitcoin? I  
15 mean, what was the -- what was the mission here?

16 A. Well, I believe the mission is to keep as much money  
17 as possible out of the government's hands because when they  
18 have enough of it, I believe they do evil things with it.

19 Q. Uh-huh. And was this a church foundation type of a  
20 mission?

21 A. Yes.

22 Q. And it was -- is this a -- is it free and clear and  
23 obvious to the folks that were involved in this that it was for  
24 the purpose of furthering that mission and that purpose?

25 A. Yes.

1 Q. And, I mean, was there any evil aspect assigned to  
2 this at all?

3 A. No.

4 Q. Did you run into situations where people, it  
5 appeared, were getting scammed?

6 A. No.

7 Q. You were able to at least keep an eye on things and  
8 monitor things properly?

9 A. Yes.

10 Q. Okay. If you were tipped off or if there would have  
11 been a problem with identifying a scammer, what was the -- what  
12 was your instruction from Ian Freeman?

13 A. We would not sell to them.

14 Q. Are you at this point in time attempting to withdraw  
15 your guilty plea?

16 A. It's a consideration at this time.

17 Q. Did you at any point in time conspire with Ian  
18 Freeman to engage in money laundering?

19 A. No.

20 Q. Did you at any point in time discuss and attempt to  
21 purposely and knowingly engage in any situation that you knew  
22 was unlawful with regard to money transmission?

23 A. No.

24 Q. What was your idea or your understanding of the  
25 money transmission aspect of this case?

1           A.     Honestly, my knowledge on that is probably pretty  
2 insufficient.

3           Q.     Right.

4           A.     But, yeah, my understanding is that churches, like,  
5 didn't need that kind of like paperwork.

6           Q.     Right. That it wasn't a business?

7           A.     Right. Yeah.

8           Q.     Did Ian try -- did Ian force you to do any of this  
9 stuff?

10          A.     No.

11          Q.     Everything you did was of your own free will?

12          A.     Absolutely.

13          Q.     And the same from what you understand would have  
14 been with your husband?

15          A.     Yes.

16          Q.     So there would have been no pressure applied to you  
17 to engage in any of this?

18          A.     No.

19          Q.     And you could either -- you could either stay and  
20 remain with Ian, you know, collecting the money from the  
21 machines and doing whatever or not?

22          A.     Yes.

23          Q.     It was all entirely up to you, correct?

24          A.     Yes.

25          Q.     Okay. I want to ask you a little bit -- there was

1 an individual from the IRS that came in last week and I just  
2 want to ask you a few questions about Ian. I mean, you do know  
3 the guy.

4 A. Yes.

5 Q. All right. Can you tell the jury about his  
6 lifestyle? I mean, does he live like the rich and famous or, I  
7 mean, what's going on here?

8 A. Absolutely not. Ian's an extremely nice guy and  
9 lives pretty modestly. His house is so old that there's  
10 horsehair in the walls. Like it's -- he's not out there  
11 living, you know, the life of the luxurious. Yeah.

12 Q. So the house -- his house is a pretty simple house?

13 A. Yeah.

14 Q. I mean, I think the jury saw, you know, at least a  
15 good bit of it.

16 A. Yeah.

17 Q. Okay. Why don't you tell the jury what he drives  
18 for a car.

19 A. Last I knew, it was a RAV4. But I haven't been able  
20 to talk to Ian in almost two years --

21 Q. All right.

22 A. -- so ...

23 Q. Was it a new RAV4?

24 A. No. No. He picked it up from some used dealership.  
25 It already had a bunch of miles on it when he got it.

1 Q. All right. So it's an older used RAV4?

2 A. Yeah.

3 Q. Any -- is he into jewelry or anything like that?

4 A. No. This is a guy that I had to beg to go to  
5 JCPenney to go get some new slacks after like a decade of  
6 wearing the same khaki pants.

7 Q. All right. So we -- we can't really assign to Ian  
8 any knowledge on your behalf that he's, quote, rich?

9 A. No.

10 Q. You may have called him rich before because he makes  
11 money and doesn't have to beg and scrape like you have had to  
12 in the past?

13 A. Yes.

14 Q. Okay. And would be your idea of rich?

15 A. Pretty much.

16 Q. Do you know what -- what the church is engaged in  
17 with regard to charities or any other outreach?

18 A. Yes. I know that donations have been made to  
19 schools. We also used to contribute to the Hundred Nights  
20 Shelter ball, which is a homeless shelter that's open the  
21 hundred coldest days of the year. Yeah, that was an annual  
22 thing.

23 Q. Okay.

24 A. Yeah.

25 Q. Are there other outreach that you're aware of?

1           A.     Off the top of my head -- definitely, but those are  
2 just off the top of my head.

3           Q.     Do you know whether or not he gives away his  
4 services in advising people how to use cryptocurrency and  
5 business and that sort of thing?

6           A.     Yes.

7           Q.     Why don't you give the jury some examples of that.

8           A.     Ian preaching about bitcoin is a -- you know, every  
9 time I introduce him to someone new, he's trying to show them  
10 how to use whatever wallet. And, yeah, can't -- can't exactly  
11 shut him up about it.

12          Q.     Are there a number of businesses in Keene, in the  
13 Keene area, that are now utilizing that particular type?

14          A.     Yes.

15          Q.     And is it because of Ian making that connection and  
16 that liaison?

17          A.     Yes.

18          Q.     Does he charge for his services in advising them or  
19 setting it up?

20          A.     No.

21           MR. SISTI: Okay. If I could have a moment, your  
22 Honor?

23           THE COURT: You may.

24           MR. SISTI: Thank you, Renee. Thanks for coming in.

25           THE COURT: Redirect.

## REDIRECT EXAMINATION

2 BY MR. AFRAME:

3 Q. Just a couple more questions.

4 So let me just -- Mr. Sisti just tried to talk to  
5 you about your plea in this case, right?

6 A. Yes.

7 Q. So you've been in this courtroom before, right?

8 A. Yes.

9 Q. And that was the day you pled guilty, right?

10 A. Yes.

11 Q. And you were under oath that day, right?

12 A. Yes.

13 Q. And Judge Laplante asked you a lot of questions,  
14 right?

15 A. Yes.

16 Q. And was one of those questions -- and we read a  
17 statement of facts, right; the government read a statement of  
18 facts that day, correct?

19 A. Yes.

Q. And did you admit that day that you lied to banks?

21           A.     There -- there -- there was a long list of what the  
22           government presented as facts.

23 Q. And did you admit that they were true?

24 A. In order to take a plea deal, yes.

25 0. Did you admit that they were true?

1 A. Yes.

2 Q. Did Judge Laplante ask you if you were pleading  
3 guilty because you were guilty?

4 A. Yes.

5 Q. Did you answer that question truthfully?

6 A. May I have a moment with my lawyer, please?

7 THE COURT: We'll take a brief recess.

8 THE CLERK: All rise.

9 (Jury excused.)

10 THE COURT: Frankly, I really just wanted to be  
11 careful because I know that Ms. -- I know that Ms. Spinella's  
12 counsel is present here today by remote because he's still  
13 COVID-positive. So I'm -- my -- I just want to make sure with  
14 Kellie.

15 Mr. Rothstein has access, he's listening?

16 THE CLERK: Yes, he does, your Honor.

17 THE COURT: All right. I just don't know if he's  
18 been trying to communicate with us during this at all and if I  
19 would be able to hear him if he was.

20 So Mr. Rothstein -- I mean, how does --

21 THE CLERK: I have to go back to -- I have to go see  
22 him. He's remote in a different area.

23 THE COURT: Right. Okay.

24 THE CLERK: He can hear you, but you're not going to  
25 be able to hear him.

1                   THE COURT: Well, he's on Zoom, so why can't I hear  
2 him? What --

3                   THE CLERK: He's not on Zoom, your Honor.

4                   THE COURT: Oh, he's just monitoring.

5                   THE CLERK: Yes.

6                   THE COURT: All right. We need to be able to  
7 communicate with him. It needs to be as if he's in the  
8 courtroom. So --

9                   THE CLERK: Let me check with Tracy --

10                  THE COURT: Yup.

11                  THE CLERK: -- because I did receive a message  
12 saying that he was tested again. So I just want to follow up  
13 with her. Can I just go out back and check with her?

14                  THE COURT: Yup.

15                  All right. You're on your feet, Mr. Sisti.  
16 Anything you want to say?

17                  MR. SISTI: No.

18                  THE COURT: Okay.

19                  MR. SISTI: Just up just in case.

20                  THE COURT: Just in case. All right. It's not --  
21 it -- look, having her consult with her counsel during the  
22 testimony is not normally the procedure, but sometimes when  
23 counsel's in the courtroom, counsel might object or intervene  
24 and I just didn't want to foreclose that possibility for  
25 Mr. Rothstein. That's all.

1                   MR. SISTI: It's -- I hate to interrupt the request  
2 from a witness to discuss something with her lawyer. However,  
3 all right --

4                   THE COURT: Right.

5                   MR. SISTI: It is additional fodder now and  
6 everybody better know. I think it goes -- it goes to the  
7 addition with regard to cross-examination. That interruption  
8 for the purpose of discussing something with her lawyer after a  
9 specific question may or may not become substantive and I may  
10 actually utilize that if Mr. Aframe doesn't ask the questions  
11 that I would probably be asking.

12                  THE COURT: Right. I -- I don't plan to allow a  
13 consultation during the testimony. I'm going to instruct  
14 the jury that there was none. But -- but my -- my taking a  
15 recess was really to ensure that Mr. -- that Mr. -- that if  
16 Mr. Rothstein is trying to be heard, he can be heard. Nothing  
17 more than that.

18                  MR. SISTI: I understand. Again I would object to  
19 consultation. I think we're both on the same playing field  
20 here.

21                  THE COURT: Oh, no, there can't be consultation and  
22 I'm not going to permit consultation.

23                  MR. SISTI: Right.

24                  THE COURT: Yeah.

25                  MR. SISTI: So I don't know what Mr. Rothstein's

1 purpose would be and I don't know where this puts Spinella at  
2 this point because you tacitly agreed, I think, on the record,  
3 to allow her to speak with her lawyer.

4 THE COURT: Right. That's why I think -- that's why  
5 I think an instruction is necessary that no such speaking to  
6 counsel took place.

7 MR. SISTI: So I don't know where we go from here,  
8 but that's the instruction I would want and that's exactly what  
9 I would be on my feet for.

10 THE COURT: Understood.

11 MR. SISTI: All right.

12 THE CLERK: Your Honor, I have Tracy here.

13 THE COURT: So is he still positive?

14 DEPUTY CLERK UHRIN: Yes.

15 THE COURT: All right.

16 THE CLERK: We can do it via telephone.

17 DEPUTY CLERK UHRIN: We could call him?

18 THE COURT: Yeah. Does he have his phone?

19 THE CLERK: Yup.

20 THE COURT: All right.

21 DEPUTY CLERK UHRIN: I need to get his --

22 THE COURT: I have his number.

23 DEPUTY CLERK UHRIN: Oh, you do?

24 THE COURT: Oh, yeah.

25 DEPUTY CLERK UHRIN: All right. Do you want me

1 to --

2 MR. SISTI: I'd probably ask that the witness be  
3 excused --

4 THE COURT: Yeah, the witness should be excused for  
5 a -- well, all I'm going to ask him is if he's trying to be  
6 heard.

7 We can excuse the witness if you like, but --

8 MR. SISTI: Yeah. I just don't know where it's  
9 going to go. That's all.

10 THE COURT: Yeah. All right.

11 There is a -- let me ask the -- the witness  
12 coordinator, is there an empty conference room out there she  
13 can stay in?

14 MS. EPHRAIMSON: There's one right here.

15 THE COURT: All right.

16 MS. EPHRAIMSON: She can stay in one if that --

17 THE COURT: Ms. Spinella, I'm just going to ask you  
18 to remove yourself into a conference room, just for a moment,  
19 if you don't mind.

20 MS. EPHRAIMSON: Just put your mask on.

21 THE COURT: All right.

22 (Witness excused.)

23 (Connected via telephone with Attorney Rothstein.)

24 THE COURT: All right. Attorney Rothstein, can you  
25 hear me?

1 MR. ROTHSTEIN: Hello?

2 THE COURT: Hello, Attorney Rothstein. This is  
3 Judge Laplante. Can you hear me?

4 MR. ROTHSTEIN: Yeah. Not very well. Let me --

5 THE COURT: Let me try this. Is that better?

6 MR. ROTHSTEIN: No. I -- am I speaking into my  
7 phone or into the computer?

8 THE COURT: Phone.

9 MR. ROTHSTEIN: Phone?

10 THE COURT: Yeah.

11 MR. ROTHSTEIN: Oh, okay. Here I am. All right.  
12 Yeah. I'm sorry. My computer -- my computer did something  
13 funny.

14 So, yes, I can hear you fine, Judge.

15 THE COURT: All right. Look. During her redirect  
16 examination --

17 MR. ROTHSTEIN: Yes.

18 THE COURT: Well, you heard that. You heard what's  
19 transpired, correct?

20 MR. ROTHSTEIN: I did.

21 THE COURT: Okay. Now, it's not the Court's plan to  
22 permit her to consult with you --

23 MR. ROTHSTEIN: Okay.

24 THE COURT: -- during her testimony, of course. But  
25 what dawned on me was I was assuming that your remote access to

1 this proceeding was basically the same as you being in the  
2 courtroom. And if you were trying to be -- if you were trying  
3 to be heard for some reason, I wanted to make sure you had the  
4 ability to do that. All right?

5 I don't -- I don't imagine that you were, but I just  
6 wanted to be sure.

7 MR. ROTHSTEIN: Well, I heard -- obviously I was  
8 here and, you know, I would -- I mean, just for my client's  
9 benefit, I heard my client say she would like the opportunity  
10 to consult with me. So I have a client who says she wants to  
11 consult with me; of course, you know, I would want to consult  
12 with her. Obviously that's up to the -- that's up to the  
13 Court.

14 So I -- I guess I'd like to make it clear on the  
15 record that where my client asked to be able to consult with me  
16 during the line of questioning that I would have wanted to --  
17 to be able to -- to talk to her to address what her -- what her  
18 concern is.

19 So, I mean, I would say that. Beyond that, you  
20 know, I don't -- I don't really know what I can say.

21 THE COURT: Understood. I -- what I want you to do  
22 is this. My only concern was that I wanted you to have  
23 basically the same access to the courtroom that you would have  
24 had you been sitting here.

25 MR. ROTHSTEIN: Yeah.

1                   THE COURT: And I -- while I certainly understand a  
2 subjective desire to respond to a client's desire to talk to  
3 you --

4                   MR. ROTHSTEIN: Yes.

5                   THE COURT: -- that's not the same as you in some  
6 way asserting yourself or objecting during the proceeding and I  
7 don't see how there would have been any grounds to, to be  
8 honest. But sometimes -- sometimes I want to be careful and  
9 that's -- that is -- that was my reason for taking the recess.

10                  So look --

11                  MR. ROTHSTEIN: Right.

12                  THE COURT: -- what I'm going to do, I'm going to  
13 allow -- I'm going to allow the examination to continue. I'm  
14 going to instruct the jury that there's been no consultation  
15 between the client and counsel.

16                  MR. ROTHSTEIN: Okay.

17                  THE COURT: But I just want you to be aware if  
18 you're trying to be heard in this proceeding, I'm going to keep  
19 this cell phone on the bench.

20                  MR. ROTHSTEIN: Okay.

21                  THE COURT: And if you want to contact me for any  
22 reason to assert anything on behalf of your client to do it  
23 that way. All right?

24                  MR. ROTHSTEIN: Okay. That's --

25                  THE COURT: All right.

1 MR. ROTHSTEIN: That's fine. Okay.

2 THE COURT: Thank you, Counsel.

3 MR. ROTHSTEIN: Yes. Thank you.

4 THE COURT: Before I hang up with you, Counsel,  
5 on -- parties' counsel have anything to add here?

6 MR. AFRAFME: No, your Honor.

7 MR. SISTI: Nothing, Judge.

8 THE COURT: All right. I'm hanging up the phone,  
9 Attorney Rothstein. Thank you.

10 MR. ROTHSTEIN: Okay. Yup.

11 (Telephone call disconnected.)

12 THE COURT: All right. So my plan is -- my plan is  
13 to resume -- have the witness resume the witness stand, bring  
14 the jury back in, explain to the jury that witnesses are not  
15 allowed to consult with counsel during their examination and  
16 none took place here; that I -- it was -- it was the Court's  
17 caution that caused the recess, but nothing's transpired in the  
18 meantime, and allow it to continue.

19 MR. SISTI: We'll see where it goes. Thank you.

20 THE COURT: All right. Will that instruction be  
21 satisfactory, at least at this point is what I'm asking.

22 MR. SISTI: At this point.

23 THE COURT: Yeah.

24 MR. AFRAFME: Yes.

25 THE COURT: All right. Let me -- I should ask

1 defense counsel. So I'm -- maybe I want to make sure I'm not  
2 failing to anticipate something.

3 I understand that based on events that transpire  
4 going forward, you may or may not have objections to make or  
5 motions to make. My question is based on what's transpired  
6 now, is there anything different you'd like me to do in  
7 addressing the jury.

8 MR. SISTI: I know what you're saying, Judge. Right  
9 now, no.

10 THE COURT: Okay. That's my question.

11 MR. SISTI: All right.

12 THE COURT: Let's get the jury.

13 My assumption, the reason for that recess is no more  
14 and no less for me to make sure the witness's counsel had  
15 access to the courtroom. I assumed he did.

16 Turns out he was monitoring it through our remote,  
17 not on Zoom, which means he could see us, but we couldn't  
18 necessarily hear him. We are addressing that now so it can  
19 happen. But that's the entire -- and the reason he didn't have  
20 Zoom up till now was he declined it. I thought, you know --  
21 our discussions were that he would be connected by Zoom, but I  
22 guess when he was told he could monitor it without a Zoom, he  
23 accepted that. So we will -- we're arranging for that now.

24 I'm going to tell the jury there's been no  
25 consultation. I'm going to tell them exactly what I just told

1 you.

2 Let's get the witness back on the stand, please.

3 BEFORE THE JURY

4 THE COURT: Ladies and gentlemen of the jury, thank  
5 you for your patience during that recess. Let me explain to  
6 you the situation.

7 The witness asked during her testimony if she could  
8 consult with her lawyer. The answer to that question is no. I  
9 have to tell the witness now, you can't consult with counsel  
10 during your testimony. It's not permitted.

11 The reason I took the break, though, was because she  
12 did have counsel present with her the last time she testified  
13 and that lawyer is here in the courtroom -- courthouse today.  
14 However, he's still COVID-positive, so we couldn't have him in  
15 the courtroom with all of you and everybody else. He's in a  
16 conference room nearby, monitoring on a computer.

17 The reason for my recess was just to make sure -- I  
18 wanted to make sure the attorney could hear and see what was  
19 going on in the courtroom because I -- I don't have a Zoom  
20 screen or something where I can see him. Nothing more than  
21 that.

22 The answer to the question is, no, the witness may  
23 not consult with counsel during her testimony. She has not  
24 consulted with counsel. It's not permitted.

25 And that's the answer to you as well, Ms. Spinella.

1 You must answer the questions.

2 And now I have ensured -- I have satisfied myself  
3 that the attorney can hear and see us and vice versa, nothing  
4 more than that. I just had to address that technological  
5 issue. Everybody understand? Good.

6 You can -- so the question's pending. Why don't you  
7 ask it again.

8 Q. So I think the question I asked you was when you  
9 told Judge Laplante that you were guilty at the change of plea  
10 hearing when you were under oath, was that a truthful answer to  
11 him?

12 A. Yes.

13 Q. You've discussed -- you talked about some of the  
14 thinking that went into your decision to plead guilty and you  
15 told Mr. Sisti about eight to ten years. I want to make sure  
16 that it's clear what happened.

17 So did we have a meeting at my office?

18 A. Yes.

19 Q. Were you present alone or with a lawyer?

20 A. With a lawyer.

21 Q. Was I present?

22 A. Yes.

23 Q. Was Ms. MacDonald present?

24 A. Yes.

25 Q. Was your lawyer and you shown a PowerPoint

1 presentation?

2 A. Yes.

3 Q. Did it show evidence in the case?

4 A. It showed what you were going to present, yes.

5 Q. Okay. Did we discuss with your lawyer the  
6 sentencing guidelines?

7 A. Yes.

8 Q. Were you required at that meeting to say anything?

9 A. No.

10 Q. In fact, was I speaking and Ms. MacDonald speaking  
11 to your lawyer?

12 A. You were addressing all of us, yes.

13 Q. And did you make any decision that day?

14 A. I did not make my decision that day, no.

15 Q. Were you allowed to consult with your lawyer?

16 A. Yes.

17 Q. Was there any limitation on you consulting with your  
18 lawyer?

19 A. No.

20 Q. And whatever that consultation was, after all of  
21 that, is that when you decided that you wanted to plead guilty?

22 A. Yes. Again, it was eight to ten years in jail that  
23 I was facing, so, yes, I decided to plead guilty.

24 Q. And that was based on the sentencing guidelines,  
25 right?

1 A. Yes.

2 Q. Okay. And who ultimately decides what your sentence  
3 is?

4 A. I do. Or wait. The judge.

5 Q. The judge. Okay. And that happened, right?

6 A. Yes.

7 Q. So Mr. Sisti asked you if you ever conspired with  
8 Mr. Freeman. So you -- you had an agreement with Mr. Freeman  
9 to help him in his bitcoin business, right?

10 A. Yes.

11 Q. You agreed to open bank accounts for him?

12 A. Yes.

13 Q. You agreed to sell bitcoin online with and for him?

14 A. Yes, and also for myself.

15 Q. Uh-huh. You collected money from the CVM machines?

16 A. Kept the money?

17 Q. Collected.

18 A. Collected, yes.

19 Q. And you understood that Mr. Freeman's business was  
20 unregistered?

21 A. Yes.

22 Q. Did you say you were doing this bitcoin business  
23 because you were attempting to fund church outreach, that was  
24 your objective? Did I understand that right?

25 A. Can you repeat that, please?

1 Q. Your objective in doing this work was to help fund  
2 church outreach programs, that was your goal?

3 A. Yes.

4 MR. AFRAFME: Okay. Can we tell you to show  
5 something on the document camera? Can I do that?

6 THE CLERK: Yes, you can.

7 Q. Did you see that, Ms. Spinella?

8 A. Not really.

9 THE CLERK: Counsel --

10 THE COURT: Hold it.

11 THE CLERK: Counsel, it may be very small up there,  
12 so you may -- you can give the paper exhibits.

13 MR. AFRAFME: Okay.

14 838.

15 THE COURT: 838, full exhibit.

16 MR. AFRAFME: It's already been admitted as a full  
17 exhibit.

18 Q. This is 838. I'll just ask you to read it and then  
19 I'll --

20 THE COURT: How do we make it so the jury can see  
21 it? Is the Zoom causing a problem with that?

22 THE CLERK: No. Are you guys able to see it over  
23 there?

24 THE COURT: No, they -- it's tiny on the screens.  
25 What I'm asking is how do we get it so the jury can see it.

1                   THE CLERK: That's the only problem with the -- with  
2 the Zoom, your Honor.

3                   THE COURT: So it is the Zoom.

4                   THE CLERK: Yes.

5                   THE COURT: Okay.

6                   MR. AFRAFME: It's very short.

7                   MR. SISTI: Your Honor, I think it's in the book.

8                   MR. AFRAFME: No, it's -- is 838?

9                   THE COURT: 838's in your book.

10                  MR. AFRAFME: 838.

11                  Q. Have you read it?

12                  A. (Nods head.)

13                  Q. So this was May 16th, 2028 (sic) and it was a Signal  
14 conversation between you and Mr. Freeman.

15                  And I'll just start -- well, I'll start from the  
16 top.

17                  And it says, "So my options are limited work but not  
18 getting flagged or, two, going balls to the wall, making money,  
19 but having attention drawn to myself."

20                  I'll leave out the expletive.

21                  Then Mr. Freeman said, "itBit told me to clear the  
22 account by 5/25, so we have until then."

23                  Then you say, "What do you propose? I'd like to  
24 make as much money as possible with the least amount of risk."

25                  Mr. Freeman says, "It's up to you."

1                   And you say, "I need a recommendation. I'm  
2 extremely broke, but I'm not trying to get flagged or  
3 arrested."

4                   And that was part of the church outreach?

5                   A.    Both things are true.

6                   Q.    Okay. Do you know Melanie Neighbours?

7                   A.    Yes.

8                   Q.    And do you know she does some bookkeeping?

9                   A.    I guess so, yes.

10                  Q.    You said Mr. Freeman doesn't have -- doesn't live a  
11 lavish lifestyle. Do you remember telling Mr. Sisti that?

12                  A.    Yes.

13                  Q.    Do you know that she wrote a letter on his behalf  
14 saying that he had \$300,000 in deposits in accounts and  
15 \$2.4 million in various liquid assets?

16                  A.    I don't really trust Melanie, so I don't -- I don't  
17 know. No, I don't know.

18                  Q.    Okay. And you yourself said to Mr. Freeman he is  
19 rich, right?

20                  A.    I have probably said that, yeah.

21                  Q.    Do you remember it was in the exhibits?

22                  A.    Uh-huh.

23                  Q.    And you wrote everything in those exhibits that I  
24 read that was under your name, right?

25                  A.    Yes, years ago.

1 MR. AFRAFME: Okay. Thank you.

2 THE COURT: Recross.

3 MR. SISTI: Thank you, Judge.

4 RECROSS-EXAMINATION

5 BY MR. SISTI:

6 Q. Let's go back to this wealth situation again. That  
7 was the last question. I just want to make sure we're all on  
8 the same page here.

9 You don't consider him a wealthy man, that's Ian  
10 Freeman over there.

11 A. No.

12 Q. In fact, not at all, correct?

13 A. No.

14 Q. All right. And, you know, when -- when the  
15 prosecutor says and you said that you said once or something  
16 that he was rich, that's relative to you being, let's get real  
17 here, really poor, right?

18 A. Yes.

19 Q. Okay. Anybody with a 2006 RAV4 living in the house  
20 that he's living in, you considered he was doing okay, right?

21 A. Right. And, I mean, when you take a bunch of text  
22 messages out of context and -- you know, I could have been  
23 joking.

24 Q. Right. Okay. So let's -- let's just make sure we  
25 clear the air there.

1                   The other thing is that, look, I'm going to  
2 painfully go back. And I hate to put you on the spot, but  
3 you're not lying here to the jury today, are you?

4                   A.     No.

5                   Q.     All right. This guilty plea you took, let's get  
6 right back down to it for a second. Okay?

7                   Was this a very pressured-packed situation for a  
8 young woman like you?

9                   A.     Yes.

10                  Q.     Did you fully recognize what in the heck you were  
11 doing when you entered that guilty plea?

12                  A.     It's very hard to understand legal proceedings.

13                  Q.     In fact, have you switched lawyers since then?

14                  A.     Yes.

15                  Q.     And what was the reason for that?

16                  A.     I am hoping to potentially appeal my plea. And,  
17 yes, I need a new lawyer to do that. And that's also why I'm  
18 afraid to be, you know, like answering questions, because I  
19 don't think that they want me to do that.

20                  MR. AFRAME: Objection.

21                  MR. SISTI: I'm sorry?

22                  MR. AFRAME: Objection. Speculation on what we want  
23 her to do.

24                  THE COURT: Sustained.

25                  The jury should disregard the statement, her

1 statement about what they want. Nobody knows what someone else  
2 wants. We -- we testify based on what we see and what we hear.

3 Go ahead, Counsel.

4 Q. Yeah. What were you referring to? Were you  
5 referring to the U.S. Attorney's Office or your lawyers?

6 A. I was referring to the prosecution.

7 Q. All right. Now, with regard to --

8 THE COURT: So, again, sustained. Disregard her  
9 thoughts about the prosecution's wishes.

10 Go ahead.

11 MR. SISTI: Thank you, Judge.

12 Q. And your intent now is to withdraw the plea?

13 A. Yes, it is. It's a consideration. I would like to  
14 if I can --

15 Q. All right.

16 A. -- but I don't know.

17 Q. All right. And that's why you have new counsel now?

18 A. Yes.

19 Q. All right. Did you -- did you at any point in time  
20 during your connection with Ian conspire to do anything  
21 illegal?

22 A. No.

23 Q. Did you at any point in time during your connection  
24 with Ian intentionally do anything illegal?

25 A. No.

1 Q. Did you take certain pains and concentrate on doing  
2 things that were not illegal?

3 A. Yes. Yes.

4 Q. And was that upon the instruction of Ian?

5 A. Yes.

6 MR. SISTI: Thank you.

7 THE COURT: Last round.

8 CONTINUED REDIRECT EXAMINATION

9 BY MR. AFRAME:

10 Q. Were you actually a financial dominatrix?

11 A. No.

12 Q. That was sent to the bank, right, that concept that  
13 you were earning money from men on the Internet?

14 A. No.

15 Q. That wasn't sent to the bank?

16 A. It -- yes.

17 Q. And that's not true, right?

18 A. No.

19 Q. You were making money by selling bitcoin, right?

20 A. Yes.

21 Q. Mr. Freeman came up with the idea of a financial  
22 dominatrix, right?

23 A. I don't remember who came up with it.

24 Q. Do you want me to show you?

25 A. I -- like I still don't know who came up with it.

1 Q. Okay. It was sent to the bank, right?

2 A. Yes.

3 Q. And it wasn't true, right?

4 A. Yes.

5 RECROSS-EXAMINATION

6 BY MR. SISTI:

7 Q. Let me cut to the chase here.

8 Did any bank lose one cent because of anything you  
9 or Ian Freeman did?

10 A. No.

11 MR. SISTI: Thank you.

12 CONTINUED REDIRECT EXAMINATION

13 BY MR. AFRAME:

14 Q. How do you know that?

15 THE COURT: Wait, wait, wait. Okay. This really is  
16 the last round.

17 MR. AFRAME: Okay.

18 Q. How do you know that?

19 A. How do I know that? Because there was never any  
20 like restitution that we were asked for. They were just  
21 shutting down our accounts with no notice of what was going on.  
22 We were never told that we were doing anything illegal.

23 Q. Okay. So you needed to be told it was illegal to  
24 lie?

25 A. Yeah. And, in fact, we were told by an FBI agent

1 that it is completely legal to sell bitcoin.

2 MR. AFRAFME: I agree with that. Okay. Nothing  
3 further.

4 CONTINUED RECROSS-EXAMINATION

5 BY MR. SISTI:

6 Q. There was no restitution to the banks, right?

7 A. No.

8 Q. They sent money back to you, in fact, when the  
9 accounts --

10 A. Yes.

11 Q. -- closed? They didn't hold money and say, you guys  
12 screwed us and you owe us money?

13 A. No.

14 Q. All right. And, in fact, you went through your  
15 plea, you discussed the plea, we unfortunately had to resurrect  
16 that moment for you.

17 A. Yes.

18 Q. Did the government ask you for any restitution as  
19 part of that?

20 A. No, just a fine paid to the state.

21 Q. That was it, right?

22 A. Yes.

23 Q. No restitution?

24 A. No.

25 Q. Nothing, right?

1 A. No.

2 MR. SISTI: Okay.

3 THE COURT: You're excused. Hope you feel better.

4 THE WITNESS: Thank you.

5 THE COURT: All right.

6 (Witness excused.)

7 THE COURT: Counsel, let's confer here in the dock  
8 for a second.

9 It'll be off the record. It doesn't need to be on  
10 the record.

11 (Off-the-record discussion.)

12 THE COURT: All right. Where are you in your case?

13 MR. AFRAFE: United States rests.

14 THE COURT: All right. So the prosecution has  
15 rested its case, ladies and gentlemen of the jury. I want to  
16 remind you that the burden of proof in a criminal trial rests  
17 entirely on the prosecution. It is the prosecution's burden to  
18 prove the elements of each offense beyond a reasonable doubt in  
19 order for you to return a conviction.

20 The defense has no obligation to put on a defense  
21 and we are going to suspend the trial for the rest of the day.  
22 Tomorrow, the -- the defense may begin to put on its case.

23 It'll be a 9:00 a.m. start like usual, same rules  
24 apply.

25 I want to thank you. I know this has been a little

1 bit of a -- more than a little bit of an inconvenient trial  
2 because of the holiday season and the curveball we've been  
3 thrown by the COVID virus. But we want to make sure you're  
4 safe, so it's been a little spotty and it's going to continue  
5 to be spotty. Hopefully today will be the end of the spotty.

6 Tomorrow we'll start at 9:00 and hopefully proceed  
7 right through the rest of this with, if the defense puts on a  
8 case, their evidence, then closing arguments, and then my jury  
9 instructions, and your deliberations.

10 Thank you, and I will see you tomorrow at 9:00 a.m.

11 But remember my admonition, right? No conversations  
12 with each other or anybody else regarding the trial and no  
13 independent research or investigation.

14 Thank you for your very deep and broad patience with  
15 our trial.

16 THE CLERK: All rise.

17 (Jury excused.)

18 THE COURT: The prosecution's rested its case.

19 The -- the defense counsel has communicated that it -- that the  
20 defense does intend to put on a defense, but, of course, I'm  
21 not going to instruct the jury on that or even mention it to  
22 them yet, just in case you change your mind overnight. I don't  
23 want to create the impression, of course, that the defense has  
24 a burden or an obligation.

25 So, Mr. Sisti, do you want to make a motion?

1                   MR. SISTI: I would like to make a motion, Judge.

2                   And generally speaking, one, it would have to do --

3 I want to go specifically -- let's go specific first.

4                   With regard to the money laundering charge and,

5 specifically speaking, the money laundering charge attributed

6 to the so-called heroin dealer/government agent/IRS agent, I

7 would ask right now that that case be dismissed. Forget

8 willful blindness.

9                   This is an intentional rejection of an invitation to  
10 engage in criminal activity that the IRS agent rather clumsily  
11 pursued after being told that Mr. Freeman could not do any  
12 transaction with him after it was exposed to Freeman that this  
13 individual was engaged in illegal activity.

14                   But he wouldn't take no for an answer the first  
15 time, so he came back wired the second time and a couple things  
16 happened there. One, Freeman again said he could not agree for  
17 him to utilize those machines. "I can't tell you you can do  
18 that" is the specific that -- that you can use them. And those  
19 are the specifics with regard to that. He did not accompany  
20 him into the facility, he did not aid him in putting money into  
21 the machines, he did not encourage him in any way, shape, or  
22 form to do so.

23                   And, you know, what's actually tantalizingly  
24 interesting is that the agent at that point in time didn't get  
25 the discount rate. And that was brought up on direct by the

1 prosecution. The rate of his purchase at the vending machine  
2 on the date after being informed by Freeman that he no longer  
3 wanted to do business with him was 14 percent. 14. 1-4. And  
4 prior to that, before knowing that this individual was engaged  
5 in illegal activity, Freeman had extended a 10 percent  
6 permanent rate. And that is in the record. That rate no  
7 longer existed after Freeman knew that this individual was  
8 engaged in criminal activity.

9                   And I say that's not only a circumstance, that's  
10 direct evidence that he no longer wanted to do business with  
11 this individual in any way, shape, or form. He had no control  
12 over who was using that machine, he had no control how much  
13 money was going into the machine, and there's nobody that could  
14 testify that could even say that Freeman knew that he was using  
15 that machine that day, pumping money into it. He heard about  
16 his intent and he told him no.

17                   With that -- with that particular count -- I'd just  
18 like to lay that one out for a second so I can do them one at a  
19 time.

20                   THE COURT: Of course.

21                   MR. SISTI: But I think that count just speaks for  
22 itself. That's screaming for a dismissal at this point in  
23 time, Judge.

24                   THE COURT: So you want -- do you want -- are you  
25 saying you want to hear his objection first?

1 MR. SISTI: I would.

2 THE COURT: We can do it that way if you like. I  
3 don't mind.

4 MR. AFRAME: In the government's view, the -- the  
5 evidence in response to what Mr. Sisti said is sufficient --

6 THE COURT: Hold on one moment, Mr. Aframe.

7 MR. AFRAME: -- sorry, is sufficient to create a  
8 jury question, in our view. The conversations between  
9 Mr. Freeman and the undercover prior to --

10 THE COURT: The jury's gone. We can remove our  
11 masks. That goes for everybody in the courtroom.

12 MR. AFRAME: Prior to the transaction, back when he  
13 told the -- the undercover you are too loose-lipped, I  
14 knowingly, in all capitals, can't sell you bitcoin does not  
15 indicate that he is refusing under all circumstances not to  
16 sell him bitcoin. It is that it has to be under the radar, it  
17 has to be in a way that we're operating through a wink and a  
18 nod and not explicitly.

19 They discussed the ATMs, the kiosks; they discussed  
20 that they had no recognition, facial recognition, pictures,  
21 forms, identification of any type in the video. The undercover  
22 says is the machine still at the Thirsty Owl; Mr. Freeman's  
23 response is it's still there. Then he says, can I use it? He  
24 says, I can't tell you you can use that.

25 That's not the same as you told me you're a drug

1 dealer and you're unknowingly using me to launder money, go  
2 away, stay away. It was in the case you are too loose-lipped,  
3 wink and nod, same thing as everything else in this case. I  
4 think it's a jury question over whether that was a wink and a  
5 nod or what Mr. Sisti wants to portray it as some kind of  
6 refusal.

7 So in my view, the evidence on that point is  
8 sufficient to get past the Rule 29 standard. If the jury took  
9 the inferences I just presented in the light most favorable to  
10 the evidence, they could conclude that Mr. Freeman had  
11 permitted that transaction, that transaction took place, that  
12 transaction was a bitcoin transaction for \$20,000.

13 We also know from other evidence that Mr. Freeman  
14 follows the money that goes into those machines.

15 THE COURT: That's what I -- let me ask you about  
16 that. Because on the points you were just making, I think  
17 there's probably enough of a -- of a willful blindness-type  
18 mens rea and intent to allow that to go to the jury. I think  
19 I agree with you, even though it's a -- even though it's a  
20 good -- a good defense argument --

21 MR. AFRAFME: Uh-huh.

22 THE COURT: -- but, you know, like Ms. Spinella  
23 said, you asked her that question, you know, can he monitor  
24 from Keene what's happening with the machines or like who's  
25 putting money into it. I mean, what's the evidence that he

1 knew that the transaction even took place?

2 I mean -- and she said yes, and then there was no --  
3 you didn't ask her how -- how Ian Freeman knew that or how it  
4 works. I don't understand that right now.

5 MR. AFRAME: So in the --

6 THE COURT: How does -- what's the evidence that Ian  
7 Freeman knows that the undercover bought bitcoin from a vending  
8 machine?

9 MR. AFRAME: So on that -- so what I can say -- I  
10 can't say -- what I can say is that what the texts that led to  
11 that question were generally is he's watching. There's a  
12 whale, they're putting -- they're pumping bills into the  
13 machine. I can't -- we don't have a text that says that day,  
14 at that time --

15 THE COURT: Yeah.

16 MR. AFRAME: -- he's watching. What I can say is he  
17 had a -- around the same time in 2020, 2021, he is watching  
18 generally. But I can't say, other than he told the -- the  
19 undercover said, I'm going there, he said the machine's still  
20 there, and then the response -- and then, you know, it's what  
21 Mr. Sisti said; I can't tell you you can use it. But he just  
22 said -- he just told him it was there.

23 THE COURT: Yeah.

24 MR. AFRAME: And then we know generally he's  
25 watching the machines for when people are putting in large sums

1 of money because he's telling his minion that it's time to go  
2 collect the money.

3 THE COURT: Yeah. It seems to me that -- yeah, I --  
4 I understand the evidence to be that he has a way of  
5 understanding when the machines are being activated and  
6 receiving cash, right?

7 MR. AFRAME: Correct, yes.

8 THE COURT: I get that. That's not the same as  
9 being aware the undercover was pumping cash in. I mean, what  
10 he's asking is is -- is the money laundering charge an attempt  
11 charge. No.

12 MR. AFRAME: No, it's not.

13 THE COURT: So I guess what I'm saying, you know, is  
14 if -- suppose he said, you know -- he said all those things,  
15 but it was you have to come to my office or my house and give  
16 me the money and he didn't show up. So where's the money  
17 laundering because -- where's the evidence he knew the  
18 undercover showed up with the money and actually did anything  
19 with it?

20 MR. AFRAME: I guess it's the inference that he told  
21 him he was going to do it.

22 THE COURT: Right.

23 MR. AFRAME: And then that he's watching generally.

24 THE COURT: Okay.

25 MR. AFRAME: That's the evidence.

1                   THE COURT: Straight answer. Thank you.

2                   Anything else you want to say about this? I focused  
3 on a different issue than you did.

4                   MR. SISTI: No. Actually, I think we were on the  
5 same track because he said he wasn't there and he didn't  
6 witness any transaction. I mean Freeman didn't. Freeman --  
7 Freeman didn't witness any -- any actual transaction.

8                   And you're absolutely correct; there's no evidence  
9 he was monitoring that machine to see if any amount of cash  
10 went in, no matter if it was from an IRS agent or anybody else.  
11 He wasn't expecting \$20,000 to go into the machine and there's  
12 no -- and there's no evidence that he moved toward it at all.

13                  There wasn't an announcement by the agent that he  
14 was going to actually go in and actually pump the machine.  
15 There's no affirmative response. All right? I mean,  
16 there's -- you can't -- you can't say that he's willfully blind  
17 when he's not getting that --

18                  THE COURT: Yeah.

19                  MR. SISTI: -- that level.

20                  THE COURT: See, the -- I think the evidence of  
21 willful blindness is definitely sufficient on source of funds.  
22 I think -- but now I'm coming back to the prosecution now. I  
23 think maybe I understand your argument better now in a way I  
24 didn't before, prosecution, which is the knowingly.

25                  When he said "I can't," all caps, knowingly accept

1 your money, frankly, I had been thinking about that as  
2 knowingly -- the knowingly culpable mental state going to the  
3 source of funds. You're saying it also goes to the acceptance  
4 of the money, the actual laundering, the act of laundering.  
5 Okay.

6 MR. AFRAFME: And I'll just add, I mean -- and that's  
7 right. And so what rounds that out, to me, is the discussions  
8 they had of the ATMs and how they operated and all the concerns  
9 that the undercover was expressing that Freeman said, don't  
10 worry about it, it's all turned off, it's all disabled, it's  
11 all there for you, basically, it's all there for you to use.

12 THE COURT: Yeah. No, yeah, I get it.

13 MR. AFRAFME: So that -- yes, you understand  
14 correctly.

15 THE COURT: I get it. I just -- you know, I'm just  
16 not sure if that gets you over the hump in a -- in a criminal  
17 statute, but I have to think about it.

18 MR. SISTI: Yeah. I mean, it's all there for you to  
19 use until you told me you were dealing heroin and now I'm  
20 telling you I can't do business with you.

21 THE COURT: Knowingly.

22 MR. SISTI: Well --

23 THE COURT: I know.

24 MR. SISTI: Where are we? You know, you're right.  
25 This is where we are.

1                   THE COURT: Okay. Under advisement.

2                   MR. SISTI: Okay. Thank you.

3                   THE COURT: On the other counts?

4                   MR. SISTI: The tax evasion counts, the last  
5 question I think I asked, and you can call it up, is whether or  
6 not he actually owes the government taxes.

7                   And the -- the sparse, scarce examination that they  
8 did with standard deductions is almost jokeworthy. And the  
9 fact that he -- he wasn't requested once to go in and go  
10 through itemization or -- or send over documents or anything  
11 else, there was absolutely zero exploration into Freeman's  
12 funds and whether or not he made a profit or didn't make a  
13 profit, whether he had income or loss.

14                  There's -- there's very simple accounting here that  
15 never even took place. It was all speculation. It's all  
16 speculative. And she looked at the jury and basically said  
17 that. Does he owe taxes? Could he actually, frankly, be owed  
18 taxes?

19                  This is not a situation where he was falsifying  
20 documents or dummying up a return. There are no returns. We  
21 all know that. He didn't -- he didn't intentionally or  
22 otherwise communicate to the IRS -- IRS in any way, shape, or  
23 form what his income was or was not or his source of funds.

24                  I mean, it was like -- that was very interesting,  
25 but standard deductions, assuming that there was a profit off

1 of transactions from LocalBitcoin or anybody else is nothing  
2 but speculation. She doesn't know what overhead is, she  
3 doesn't know what the take is, she doesn't know where the  
4 donations were, she doesn't know where the charitable  
5 deductions are, she doesn't know anything about -- with regard  
6 to taking -- property taxes, employees, if there are any, if  
7 you want to call them that, nothing.

8                   We're making his case that he's a nonprofit, that  
9 he's a church. There's no invitation to even clarify anything.  
10 It's like I'm assuming what your income -- this is assuming  
11 everything that we subtract from the sale is somehow profit,  
12 which is like a myth, and assuming that you take all this money  
13 as income, I'm going to use standard deductions to calculate  
14 what the taxes should be?

15                   I mean, that's almost close to bizarre. I mean,  
16 I -- I couldn't believe what I was hearing. I thought we were  
17 going to get into much more of an exploration of, you know,  
18 accounts here and accounts there and how it couldn't be just,  
19 you know, the difference between the sale and resale of the  
20 bitcoin, that where's this other money. There -- there's --  
21 nobody's even said there is other money.

22                   I mean, it's a guesswork game and all it is is it's  
23 interesting, but they can't make it out in 2016, 2017, 2018, or  
24 2019 as to whether he owes the government taxes. And that's  
25 kind of like the fundamental, you know, question that you have

1 to -- have to answer here. Evading taxation is one thing. If  
2 you don't owe it, you're not evading it. He may be cheating  
3 himself. So that's where those are.

4 THE COURT: Understood.

5 MR. SISTI: Thanks.

6 MR. KENNEDY: So --

7 THE COURT: Mr. Kennedy.

8 MR. KENNEDY: So with respect to the testimony on  
9 the taxes due and owing, there was testimony from the agent  
10 that she looked at LocalBitcoins records which included the  
11 commission that is charged on top -- this is the commission  
12 that you would charge in a sale for the profit and that's how  
13 she calculated for each trade. And she went every single trade  
14 and added that up and so that's the amount of money that was  
15 over and above the standard cost. And that's what she used.

16 She also testified that she only looked at the  
17 LocalBitcoins records. There was a lot of evidence in this  
18 case with respect to the Telegram and --

19 THE COURT: Slow down a little bit.

20 MR. KENNEDY: And that a lot of these sales took  
21 place through the private app, the Telegram, and she said that  
22 had she looked at those, if there was a commission on those  
23 sales, that would have increased the amount of tax due and  
24 owing.

25 THE COURT: Right.

1                   MR. KENNEDY: We had chats from the LocalBitcoins  
2 where Mr. Freeman was discussing how he uses the Telegram and  
3 he charges -- I think in one example he said a ten --

4                   THE COURT: I think you've proved beyond a  
5 reasonable doubt that income was generated. There's no  
6 question about that. But his argument is based on the  
7 availability of deductions and what -- and what effect that may  
8 or may not have had, right, on tax due and owing, whether  
9 there's an evasion of any obligation to pay taxes. It wasn't  
10 about the revenue. That's proven. What about his argument?

11                  MR. KENNEDY: So the testimony was that these  
12 itemized deductions have to be affirmatively claimed by the  
13 taxpayer.

14                  THE COURT: Yeah.

15                  MR. KENNEDY: And the further testimony was this  
16 taxpayer did not file any tax returns.

17                  THE COURT: But is the law -- is the law that you  
18 don't -- I mean, is the law that you don't owe taxes or you --  
19 that you're only entitled to deductions when claimed? Do you  
20 follow what I'm saying?

21                  Your colleague is nodding his head, but do you know  
22 any authority -- I mean, there probably is authority for that.  
23 I just don't know. What is the law? I mean, is it you owe  
24 taxes -- there's an obligation to pay taxes if you haven't  
25 taken the deduction?

1                   MR. KENNEDY: If you haven't claimed the deduction.  
2 There's thousands of deductions in the Tax Code and we don't  
3 just sort of assume that nobody owes taxes because they might  
4 apply.

5                   THE COURT: Yeah.

6                   MR. KENNEDY: People -- you know, paying your taxes  
7 is an affirmative duty under the law and we apply the standard  
8 deduction unless you have more deductions and you want to claim  
9 those under your taxes. That was the testimony. And --

10                  THE COURT: Yeah.

11                  MR. KENNEDY: -- and it was figured out and the  
12 numbers presented were based on the revenue and then applying  
13 those deductions. I mean, Mr. Freeman didn't claim any  
14 additional deductions. I mean, again, the law, I think,  
15 requires substantial tax due and owing. It doesn't require a  
16 specific amount. I think the amounts that were proven  
17 certainly enough to meet the substantial tax due and owing and  
18 I think it's more than enough to get to the jury on this  
19 question.

20                  THE COURT: What about the last question, though?  
21 You know, the last question defense counsel asked the IRS  
22 witness -- I'm trying to remember exactly how it was asked. I  
23 remember how it was answered. The answer was yes. But the  
24 question was something like it may be that Ian Freeman doesn't  
25 owe any income taxes, isn't that right.

1 MR. KENNEDY: My --

2 THE COURT: Do you --

3 MR. KENNEDY: Sorry.

4 THE COURT: She said yes. I don't know if it was  
5 maybe, or it's possible, something like that.

6 And at first I thought -- I'll admit at first I  
7 thought, those claims are gone. I thought more about it and  
8 realized, well, the fact that it's possible that he wouldn't  
9 owe income tax doesn't mean it's a reasonable doubt that he  
10 owes income tax because a lot of things are possible that  
11 aren't reasonable. That's still a very, very odd way to end,  
12 you know, the testimony without a lot more explanation, but,  
13 still, what do you say about that? Is it what I just said?  
14 What do you say about that --

15 MR. KENNEDY: So --

16 THE COURT: -- end of your testimony?

17 MR. KENNEDY: So my recollection of the testimony  
18 was Mr. Sisti sort of offered the hypothetical of if he had all  
19 of this overhead --

20 THE COURT: Yeah.

21 MR. KENNEDY: -- and he had rent and he had all  
22 these other things that he could claim deductions for, is it  
23 possible that he would owe no taxes. And I think she said it's  
24 possible but, again, he didn't claim those deductions.

25 THE COURT: You're hearing it as that he would owe

1 no tax because as you've just told me before one isn't entitled  
2 to these deductions, whether it's the standard or itemized,  
3 until one claims them, right?

4 MR. KENNEDY: And that was the testimony on  
5 redirect. I mean, I --

6 THE COURT: Yeah, I'm going to need better than  
7 testimony. I'm going to need law on that.

8 MR. KENNEDY: Yup.

9 THE COURT: So we've got some time. I need you to  
10 dig that up. Because it's a -- frankly, I think I understand  
11 it, but it's not something we focused on in our jury  
12 instructions at all or even in this motion and I think it's an  
13 important point.

14 I think you're probably right about it, by the way.  
15 It's that, you know, it's -- it's not that -- it's not that  
16 like I don't have an obligation to pay taxes if I might  
17 hypothetically take deductions. You're probably right about  
18 that. I just want something a little more concrete than what I  
19 have. All right.

20 MR. KENNEDY: Happy to brief it.

21 THE COURT: Mr. Sisti, go ahead. What else you got?

22 MR. SISTI: I'll encourage you to take a look at  
23 that actual exchange because I think her answer came with the  
24 question: So Mr. Freeman may not owe any taxes at all, and I  
25 believe her answer was in the affirmative, Judge.

1                   THE COURT: May not owe any taxes?

2                   MR. SISTI: May not owe any taxes at all.

3                   THE COURT: I'll pull it up. I'm not sure if that's  
4 dispositive, but it's certainly important evidence. Yup.

5                   MR. KENNEDY: Just, I mean, the question was, you  
6 know, based on a different set of facts that you don't have  
7 here before you, is it possible that Mr. Freeman doesn't owe  
8 taxes.

9                   THE COURT: Yeah, I see -- I think you're -- you're  
10 viewing it as a hypothetical line of questioning and defense  
11 counsel isn't. I'm not sure what the -- I'm not sure if it  
12 makes much difference because even if it's possible he doesn't  
13 owe any taxes at all, it doesn't mean it's a reasonable doubt  
14 that he owes taxes at all. I don't know. But at least I want  
15 to have a good understanding of the law on this issue before I  
16 decide.

17                   Go ahead, Mr. Sisti.

18                   MR. SISTI: Yeah, just on that, just one other  
19 point.

20                   THE COURT: Yeah.

21                   MR. SISTI: There would have to be willful -- a  
22 willful --

23                   THE COURT: Yeah.

24                   MR. SISTI: -- act, a voluntarily and intentionally  
25 willful act, on Freeman and I think --

1                   THE COURT: See, I don't really struggle -- I don't  
2 really struggle with the willfulness of Mr. Freeman because --  
3 you may disagree. Tell me what you think about this.

4                   MR. SISTI: Uh-huh.

5                   THE COURT: He -- the evidence to me, as I see it,  
6 is that Mr. Freeman -- one thing he certainly was about  
7 everything he did was very willful. He was careful, he was  
8 intentional, he -- he tried to create transactions that were at  
9 least, in his view, either lawful or apparently -- appeared to  
10 be lawful. And he was being very careful based on an  
11 understanding of the law and his obligations thereunder. It  
12 wasn't as if he was sort of aloof and unaware. Do you follow  
13 what I'm saying?

14                  I think that carries a -- a strong indication of  
15 willfulness. Do you follow what I'm saying?

16                  MR. SISTI: I do, only if you conclude from the  
17 beginning that he's guilty. But if you -- if you start from  
18 scratch and say, this is a guy that's trying not, okay, to owe  
19 the government taxes, there's nothing wrong with that. All  
20 right.

21                  THE COURT: Uh-huh.

22                  MR. SISTI: If you take a look at the other side and  
23 say, this is a guy that is intentionally, carefully inspecting  
24 his own moves here and there and everywhere and being a church  
25 and being a nonprofit and actually not profiting and not buying

1 the brand-new Lamborghini, then I think you have to look at the  
2 other side of the coin.

3                   This is a guy that, okay, they didn't -- they  
4 didn't -- there was no itemization. This is a guy that went  
5 for four years during these -- these tax evasion years where I  
6 believe you'll also look at the testimony and she will agree  
7 that generally they send out letters to people like Freeman.  
8 He had an address. He had an address. He wasn't hiding from  
9 anybody. He registered with the state of New Hampshire. He's  
10 got an actual address. He's got phone numbers. He's got  
11 everything else. They generally send letters out and make  
12 inquiry with these types of individuals.

13                   Not in this case, though. That was the exception,  
14 that there was no request for him to come in at any time to  
15 explain what he does, what his church, which is out there --

16                   THE COURT: Yeah.

17                   MR. SISTI: -- you know, it's -- it's about -- it's  
18 out there, like notoriously out there, especially in the Keene  
19 area. Bring him in. Ask him. Instead of running around in  
20 the weeds trying to catch him on something -- it's like a  
21 gotcha game. Just bring him in. If you wanted to bring him in  
22 in 2016, bring him in. '17, bring him in. '18, '19, '20,  
23 doesn't even know if the -- she doesn't even know if he owes  
24 money in 2020. There's no letter for 2020 either or 2021.

25                   I mean, what's the deal here? I mean, we're going

1 to just keep -- keep dropping line and hook out to you forever  
2 so that we can just aggregate it or allow you to go along with  
3 it because maybe, you are right, you didn't file in '16,  
4 nothing happened to you; '17, nothing happened to you. You're  
5 right out there. Everybody sees you.

6 '18, nothing happened to you, '19, nothing happened  
7 to you, '20, nothing happened to you, '21. Why can't he assume  
8 that he's doing everything right, I guess is what I'm saying.

9 So, I mean, I guess that's it from me on the tax  
10 thing, but you've got to look at it from both sides of the  
11 coin.

12 THE COURT: Yeah, let me ask the prosecution this  
13 question.

14 It's related to that argument Mr. Sisti just made,  
15 but not exactly on point.

16 His point is that, you know, as years go by, right,  
17 without contact from the IRS about a failure to file, that's  
18 almost a -- you know, like -- it's like an estoppel-type  
19 argument, right, or laches or something, which really has no  
20 application in criminal law. But you know what I mean.

21 MR. KENNEDY: Yeah.

22 THE COURT: Okay. I'm not really focused on that as  
23 much.

24 MR. KENNEDY: I can address --

25 THE COURT: I think it's a great jury argument, but

1 I'm not focused on it. What I am focused on is this.

2                   Based on my experience doing -- presiding over cases  
3 and prosecuting cases for years before that, it does seem  
4 unusual -- it does seem unusual -- an evasion charge seems  
5 unusual without any sort of prior contact from the IRS.

6                   You know, generally these things, you know, there's  
7 usually a big question in the tax division over whether there's  
8 going to be a criminal or a civil charge and how it should be  
9 properly handled and it's just sort of a long, deliberative  
10 process. It's not something that usually appears out of  
11 nowhere as a criminal charge.

12                   You understand what I'm asking?

13                   MR. KENNEDY: I do.

14                   THE COURT: So this seems unique. And I'm not sure  
15 if it makes any difference, but I'm wondering about it.

16                   MR. KENNEDY: Yeah, I'm not sure it does make any  
17 difference. I mean, I can't speak to sort of stand-alone  
18 tax --

19                   THE COURT: Yeah.

20                   MR. KENNEDY: -- investigations. This was a case,  
21 you know, that we heard testimony has been investigated for  
22 several years for many aspects of it. I think there was a lot  
23 of evidence in this case and the fact that it's supported a  
24 finding of a tax due and owing and a willful failure -- and a  
25 willfulness to evade, I think, you know, makes this a little

1 different from just somebody who, you know, maybe hasn't filed.

2 I think, you know, with respect to not filing for  
3 several years and whether there's any, you know, estoppel to  
4 that --

5 THE COURT: Yeah.

6 MR. KENNEDY: -- the First Circuit here has cited  
7 that as evidence of willfulness, repeated failure to file  
8 that's referenced in the --

9 THE COURT: Yeah.

10 MR. KENNEDY: -- *Stierhoff* case of the  
11 First Circuit. It's one of the factors they look at, along  
12 with employment of aliases and nominee entities.

13 You know, regularly conducting business in cash  
14 where checks would suffice, earning substantial income during  
15 years in which you don't report any of it, these are all what  
16 the First Circuit has recognized as evidence of willfulness and  
17 I think all of that has been at least presented here for a jury  
18 to make that inference.

19 THE COURT: It has.

20 MR. KENNEDY: And then I suppose on top of it, your  
21 Honor, we heard, you know, the evidence. We saw the stop sign  
22 with the stop paying taxes; we saw the video --

23 THE COURT: Yup.

24 MR. KENNEDY: -- where Mr. Freeman talked about the  
25 ATMs are a way that you can have value and it can't be taxed

1 unless you tell them about it.

2 And then we saw the chat from the Telegram,

3 Mr. Freeman's statement only suckers pay tax on crypto.

4 So I think there's more than enough evidence to get  
5 to a jury question on whether there's willfulness here.

6 THE COURT: Yeah.

7 MR. SISTI: It's just an interesting coincidence,  
8 Judge, and we were just discussing this, that those tax  
9 evasion charges were not originally in the indictment. It they  
10 came as a superseding allegation after Mr. Freeman made it very  
11 clear he was not going to be entering guilty pleas. But I'll  
12 move on.

13 THE COURT: I get it. There's a lot of evidence in  
14 this case like that, though. For example, there is circuit  
15 authority that repeated failures to file can be evidence of  
16 willfulness, but it's like a lot of evidence in this case.  
17 One, including the sort of careful instructions to bitcoin  
18 buyers about what to say and how to say it. On one hand, that  
19 can look like willfulness, it certainly can look like  
20 willfulness, and a jury could find it as evidence of  
21 willfulness.

22 On the other hand -- and I'm not saying this amounts  
23 to reasonable doubt. I'm just acknowledging that it exists.

24 You can also view the very same evidence -- one  
25 could maybe, not sure if reasonably, but one could view it as a

1 careful attempt to either run -- run a business lawfully or at  
2 least in a way that doesn't expose one to criminal prosecution;  
3 or, on the other hand, to commit crimes in a way that makes it  
4 more difficult to prove crimes.

5 It's unique evidence, this case.

6 All right. Understood. Any other counts you want  
7 to move on?

8 MR. SISTI: Yeah, the money transmission generally,  
9 Judge --

10 THE COURT: Yeah.

11 MR. SISTI: -- there's really no evidence of  
12 transmission. I thought that we had somebody that was going to  
13 be able to discuss blockchain and movement wallet, dynamics  
14 within the realm of cryptocurrency, some basic understanding of  
15 just what that is, if it is determined to be a currency in and  
16 of itself and how it can move, if it moves, does it really  
17 transfer, is this an item that appears and reappears through  
18 algorithms and --

19 THE COURT: Wait a minute. Wait a minute. I was  
20 with you until --

21 MR. SISTI: Right.

22 THE COURT: -- does it really transfer.

23 MR. SISTI: Does it transfer.

24 THE COURT: I can understand the argument we're not  
25 in the money transfer business.

1 MR. SISTI: Right.

2 THE COURT: What do you mean by does it transfer?

3 MR. SISTI: Is there actually a transfer. Bitcoin  
4 is nothing but mathematics. It's nothing but a bunch of  
5 numbers and stuff. Okay?

6 THE COURT: Right.

7 MR. SISTI: It actually -- my understanding, of  
8 course, we didn't get anybody on the stand to explain it, is  
9 that it actually disappears and reappears. All right? It's  
10 not as though I'm handing you my bottle of water and then  
11 you're taking it and giving it to somebody else. It's a  
12 disintegration of this and it's a reapplication through  
13 mathematics. All right?

14 THE COURT: Ceases to exist until someone --

15 MR. SISTI: Yes. Basically, it's gone. All right?  
16 It has no worth unless and until it re -- it revitalizes itself  
17 through a transaction.

18 But --

19 THE COURT: We need David Hume to work this out for  
20 us.

21 MR. SISTI: Well, we needed somebody.

22 THE COURT: Yeah. Okay.

23 MR. SISTI: Guess what? You got 12 people over  
24 there that are going to be saying the same thing.

25 So with regard to the transmission or transfer

1 evidence, it's devoid of being in the record. Making believe  
2 it goes from one so-called wallet in some kind of a form to  
3 another wallet is -- is a myth. And I hope that we're not  
4 leaving this stuff up to the imagination of the jury because  
5 that's a very essential and critical point, I think, that the  
6 government has to prove beyond a reasonable doubt. And they  
7 have failed to do that in this case.

8 Second --

9 THE COURT: A couple of witnesses just walked in. I  
10 don't think sequestration orders apply to this argument, do  
11 you? Can we have -- there's witness in the courtroom. Anybody  
12 have any objection to that?

13 MR. SISTI: I don't know who's here.

14 THE COURT: It looks like Ms. Spinella and --

15 MR. SISTI: Oh, I don't care. I take it that  
16 they're discharged.

17 MS. MACDONALD: Yeah, they've already testified.  
18 That's fine.

19 THE COURT: Go ahead.

20 MR. SISTI: Thank you.

21 With regard to the aspect of the transmission or  
22 transfer cases, the money transmitter cases, I have to say,  
23 one, the argument is that, one, they're not in that business  
24 and that we believe that takes them outside of the definition  
25 and that the very foundation of this particular charge has to

1 do with a business.

2 They don't claim to be a business and there's been  
3 no evidence to the contrary with regard to what -- just what  
4 that business is other than the last witness that took the  
5 stand and said that it was for church donations and  
6 church-related activities and the mission of the church.

7 So I think we've got a problem there. But, you  
8 know, more interestingly, the transfer or transmission itself  
9 is in question. I --

10 THE COURT: Okay.

11 MR. SISTI: I mean, I -- I had expected, and I think  
12 the Court expected, that we would hear something a little bit  
13 more than guesswork that went on during the course of this  
14 trial, that you would have somebody on the stand that would be  
15 able to testify to just what that means in the context of this  
16 particular item, bitcoin, and we didn't hear it.

17 Somebody could take the stand and explain how a  
18 dollar goes through a bank to another bank and another bank.  
19 That -- that can be explained. But we didn't hear anything  
20 about this bitcoin business. Nothing. And it's -- they're all  
21 sitting over here worrying about what a wallet is, for God's  
22 sake.

23 THE COURT: Huh.

24 MR. SISTI: You know, that hasn't even been defined.  
25 So, you know, we're at the end of this case, they've

1 rested, but there's a lot of flesh that has to go on the  
2 skeleton, yet, you know. I mean, it's -- it's -- if we're just  
3 going to leave it to the imagination of the jury, I think  
4 that's pretty dangerous and that's why I'm making this motion  
5 on --

6 THE COURT: And the argument boils down to -- and I  
7 don't mean to oversimplify, I just need to clarify.

8 You're basically saying that if they're going to --  
9 to prove that it's a money transmitting business --

10 MR. SISTI: Uh-huh.

11 THE COURT: -- they must prove that money was  
12 transmitted.

13 MR. SISTI: Yes.

14 THE COURT: And -- and you're saying that's the  
15 deficit there, right?

16 MR. SISTI: Yes.

17 THE COURT: They haven't proven that.

18 MR. SISTI: Yes.

19 THE COURT: All right.

20 MR. SISTI: The other charge, the other money  
21 laundering aspect, I think we've covered enough in the argument  
22 with regard to the agent, but it generally carries the same  
23 basic argument and that is that this is an individual trying  
24 over the top not to be involved in money laundering. In fact,  
25 he's taking a counterstep to money laundering and maybe that

1 will be more fruitful at the end of our testimony and when we  
2 put on our witnesses, but --

3 THE COURT: Okay.

4 MR. SISTI: -- when there's scam detection, he  
5 actually works and aids in trying to find out what's going on.  
6 So ...

7 THE COURT: Got it.

8 MR. SISTI: Okay.

9 MS. MACDONALD: I guess it's my turn, Judge.

10 With respect to the money transmission, we did hear  
11 that testimony. The first witness, Ali Comolli, testified  
12 about how bitcoin works, how the transactions are recorded on  
13 the blockchain, how they're verified by computers all over the  
14 world. She testified about that. She testified about what  
15 wallets were and how they worked.

16 The FinCEN witness testified that FinCEN  
17 specifically has determined that transmission of cryptocurrency  
18 is money transmission --

19 THE COURT: Yup.

20 MS. MACDONALD: -- and that also is evidence that  
21 the sending of bitcoin from one wallet to another qualifies as  
22 money transmission. And we heard lots of evidence that those  
23 transactions happened in this case.

24 You know, the defendant's own words in an email  
25 he -- to a bank, somebody who worked for a bank. We have clear

1 evidence of a sale of a digital product and that product was  
2 delivered to the buyer. We have the receipts from the  
3 undercover showing that he received the bitcoin in his wallet  
4 after paying Mr. Freeman.

5 So I think there's plenty of evidence that the  
6 transmissions occurred. The fact that -- the argument that  
7 this was --

8 THE COURT: What was the thing you just said about  
9 we have a receipt -- because we definitely got evidence about  
10 wallets and how bitcoin works. We did. But what we didn't  
11 get, which I was expecting to get after our hearing on the  
12 witness that was never called, what evidence do we have tying  
13 Freeman's bitcoin wallet to any evidence in this case?

14 MS. MACDONALD: We have evidence that people gave  
15 him money and received bitcoin. So I don't think we needed to  
16 show on the blockchain that it was coming from his wallet. I  
17 think that that was --

18 THE COURT: You don't?

19 MS. MACDONALD: I think that it was clearly shown  
20 that various people were giving him money and getting bitcoin  
21 in return.

22 THE COURT: Yeah.

23 MS. MACDONALD: That's how, you know, you -- you  
24 know, and that he -- yeah, that he was buying millions of  
25 dollars in exchanges.

1                   So he was -- we had evidence that he had exchange  
2 accounts, that he had bank accounts that were sending money to  
3 various exchanges, frequently large amounts of money, and that  
4 he was --

5                   THE COURT: But remember at the hearing you said --  
6 because we had an argument about whether your witness should be  
7 allowed to say that is Ian Freeman's bitcoin wallet. You said,  
8 we're not going to do that. We're just going to give the  
9 jury -- we're going to give the jury -- I think it was, what do  
10 they call it, you know, the wallet number, the --

11                   MS. MACDONALD: The address.

12                   THE COURT: Yeah, okay. But you said they're going  
13 to have information that they can tie to Ian Freeman's bitcoin  
14 wallet without being told by a person it's Ian Freeman's  
15 bitcoin wallet because the defense objected to that based on  
16 that witness. You said we don't need to do that, we're not  
17 going to do it. But you said the jury will be able to connect  
18 his wallet to the evidence in this case. I don't see that. I  
19 didn't see that in this case.

20                   MS. MACDONALD: So, I mean, frankly, your Honor, the  
21 reason that we thought that her testimony would be helpful was  
22 that it did connect all the businesses.

23                   THE COURT: Yeah.

24                   MS. MACDONALD: Right? And so it connected -- it  
25 showed that various exchange accounts in Mr. Freeman's name and

1 in the coconspirators' names were all depositing into this  
2 wallet and that the wallet was then going to fund ATMs and the  
3 undercover purchases.

4 That turned out not to be really in dispute and so  
5 that's why we made the decision not to -- not to call her. So,  
6 you know, we've had plenty of evidence --

7 THE COURT: What do you mean not in dispute?  
8 Everything is in dispute.

9 MS. MACDONALD: Our thought was that we had proven  
10 that in other ways.

11 THE COURT: Okay.

12 MS. MACDONALD: That Mr. Freeman had control over  
13 all the ATMs through his text messages. You know --

14 THE COURT: I get it.

15 MS. MACDONALD: -- we knew he was controlling them,  
16 through his conversations with the undercover. That was sort  
17 of the feeling, that we didn't need that extra testimony to  
18 show that he was controlling all aspects of this business. You  
19 could clearly see from his bank account records that the bank  
20 accounts in his name were funding the exchanges. We have the  
21 applications for the exchange accounts that came in with the  
22 witness from itBit.

23 And so the feeling was that there -- we had proven  
24 that in various other ways and it wasn't necessary to kind of  
25 do that on the blockchain.

1                   THE COURT: Okay. Truth is I was very focused on  
2 that because of the pretrial hearing, so I was sort of looking  
3 for it. But I -- I'm not sure you needed to prove it, to be  
4 honest. You know, what needed to be proved, what the burden  
5 is, is that Ian Freeman, right, had to own, control, et cetera,  
6 et cetera, the money transmitting business. And we do -- I  
7 think we do have evidence that this business engaged in bitcoin  
8 transmissions. That seems to be proven.

9                   I think I was looking for that only because the way  
10 we left it at that hearing and you're basically telling me you  
11 made a decision that -- not to do that.

12                  MS. MACDONALD: Correct.

13                  THE COURT: Which doesn't necessarily -- I'm not  
14 saying that's fatal. I'm just trying to understand.

15                  MS. MACDONALD: Uh-huh.

16                  THE COURT: Okay. I interrupted you. Sorry.

17                  MS. MACDONALD: I was also going to talk about the  
18 claim that this was not a business.

19                  There was evidence --

20                  THE COURT: Yeah.

21                  MS. MACDONALD: -- about his rates and about the  
22 profits he was making and the fact that he had Ms. Spinella  
23 working for him. His contracts are employment contracts.  
24 There was substantial evidence that he was operating this as a  
25 business and making substantial profits.

1                   THE COURT:  Yup.  All right.  Thank you.

2                   You're getting up, Mr. Sisti.  Go ahead.

3                   MR. SISTI:  Yeah, because of that last exchange with  
4 regard to transmission again.

5                   What they proved was that there were -- I'm going to  
6 get this straight -- transactions, not transmission.  And --  
7 and that therein lies the problem.  Okay?  Therein lies the  
8 problem.  And, yes, you do have --

9                   THE COURT:  Why isn't that just semantics,  
10 transactions not transmission?

11                  MR. SISTI:  Well, you know, because the -- it's the  
12 actual transmission that -- that is the question.

13                  THE COURT:  Because of your idea that bitcoin  
14 doesn't exist as a thing; it's more of a --

15                  MR. SISTI:  I mean --

16                  THE COURT:  It's more of a -- I don't know, a way of  
17 understanding and accessing money at different points, but it's  
18 not physically moving is your point.

19                  MR. SISTI:  It certainly isn't physically moving.  
20 We know that.

21                  THE COURT:  Yeah.

22                  MR. SISTI:  But -- but we don't know what it does  
23 because nobody testified to it.  All they saw was somebody  
24 bought X for Y.  That's -- that's a transaction.  That's not a  
25 transmission.

1                   THE COURT: Okay. All right. You don't have to sit  
2 down. If there's something else you want to say, you can --

3                   MR. SISTI: No, that's fine.

4                   THE COURT: All right. That -- that motion under  
5 Rule 29 is under advisement. I'm not going to take the case  
6 away from the jury yet or at all maybe. I'm still thinking  
7 about it. There's some good arguments that have been made  
8 here, but the government's had responses to them and I've got  
9 to think about it.

10                  So if you're going to put on a defense, we're going  
11 to allow you to proceed tomorrow morning at 9:00.

12                  I'll circulate the latest draft, which isn't much of  
13 a change from the jury instructions, but we've made the changes  
14 we discussed together at our charge -- at our charge conference  
15 earlier.

16                  Anything else anybody wants to say?

17                  MR. SISTI: Nothing. Thank you, Judge.

18                  MS. MACDONALD: No, your Honor. Thank you.

19                  THE COURT: All right. I appreciate your patience  
20 with all this during sort of a difficult, unusual procedural  
21 posture with the COVID-infected witnesses and counsel.

22                  I will see you tomorrow morning at 9:00.

23                  THE CLERK: All rise.

24                  THE COURT: Let's make sure, Mr. Sisti, those  
25 witnesses get here early for testing.

1                   MR. SISTI: We're going to try to get them here at  
2 8:15 --

3                   THE COURT: Good.

4                   MR. SISTI: -- as quick as we can get them here.

5                   THE COURT: See you tomorrow.

6                   At our charge conference -- just -- just remember  
7 where we left it. I just wanted to remind you, you were going  
8 to send me some tax evasion factors you wanted me to instruct  
9 the jury about.

10                  MR. SISTI: Yeah, I will get those to you.

11                  THE COURT: Okay. Just a reminder.

12                  (Proceedings adjourned at 11:42 a.m.)

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C E R T I F I C A T E

I, Liza W. Dubois, do hereby certify that the foregoing transcript is a true and accurate transcription of the within proceedings, to the best of my knowledge, skill, ability and belief.

Submitted: 3/10/23

/s/ Liza W. Dubois  
LIZA W. DUBOIS, RMR, CRR